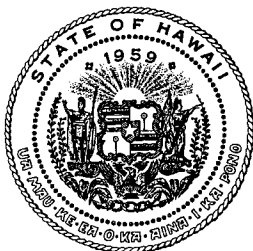


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SMALL BUSINESS REGULATORY REVIEW BOARD

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March 20, 2003

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To: June Harrigan, Manager
Environmental Planning Office

From: Katsumi Tanaka, Chairperson
Small Business Regulatory Review Board

Subject: REVIEW OF HAWAII ADMINISTRATIVE RULES
Proposed Administrative Rules, Chapter 11-54
"Water Quality Standards"

This memorandum is in response to the Department of Health's (DOH) proposed changes pertaining to the above-captioned administrative rule.

The Small Business Regulatory Review Board provides recommendations to agencies on proposed rules and proposed rule amendments, pursuant to the Regulatory Flexibility Act, Act 168, SLH 1998, as modified by Act 202, and codified as Chapter 201M and the Governor's Administrative Directive No. 99-02.

The Review Board initially reviewed the proposed amendments in April 2002. At that time, the Review Board supported DOH's proposed amendment changes contingent upon the rules not going beyond the Environmental Protection Agency's requirements. In reviewing these amendments, which have been significantly reduced from the initial review, the Review Board is respectfully providing the following comments and recommendations:

1. The word "National" perhaps was deleted in error in the original amendment §11-54-1.01, Part C from the phrase..."constitute an outstanding [National] resource..." There is an existing federal policy that addresses the anti-degradation adequately. Therefore, the existing process should not be duplicated creating another state level of enforcement and interpretation; this is unnecessary. We ask that you specifically follow only the federal language.
2. Section 1.1, Antidegradation. The word "existing" was added to the federal language in the text. "Existing" should be omitted as it does not follow the EPA Regulations word for word, as the word "existing" is not currently stated in the federal language.

3. There doesn't appear to be a definition of cost projections. Nor has it been defined as to what the differences there are in the reporting between ecoli and enterococci sampling methods. For example, will there be a higher frequency of reporting, and if so, what will it be; is the enterococci method more sensitive, thereby, resulting in a higher frequency of positive responses?

We thank you for keeping us apprised of the regulatory activity of your agency.

cc: Denise Walker, Discussion Leader